

21. (Previously Presented) The method as in claim 9 wherein the set-up message is sent from an intermediate node.

REMARKS

A. The Section 102 Rejections

Claims 1, 3-7, 9-15 and 17-21 were rejected under 35 U.S.C. §102(a) as allegedly being anticipated by an article authored by Wei et al. (hereinafter “Wei”). Applicants disagree and traverse these rejections for at least the following reasons.

Each of the claims of the present invention includes the feature of sending a connection setup message to a plurality of next nodes while, for example, initiating a cross-connect with another node or initiating a cross-connect at a plurality of downstream nodes while executing a cross-connect at another node.

In contrast, Wei appears to send a SETUP message to a single, next hop node while completing a cross-connect with another node (see p. 2029; “The “SETUP” message travels hop-by-hop...”; see also Figs. 4-6).

Because Wei does not disclose the claimed feature of sending a connection set-up message to a plurality of nodes while initiating a cross-connect at another node it cannot anticipate the subject matter of claims 1, 3-5, 9-15 and 17-21. Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1, 3-7, 9-15 and 17-21.

B. The Section 103 Rejections

Claims 8 and 16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wei in view of an article by Qiao et al. ("Qiao"). Claims 8 and 16 require in-band signaling messages to be used in order to initiate cross-connections.

As the Office Action admits, Wei does not disclose or suggest such in-band signaling. To overcome this deficiency, the Examiner relies on Qiao. Applicants respectfully disagree and traverse these rejections for at least the following reasons.

After reading Qiao, especially page 26, section 2 (referred to previously the Examiner), Applicants do not find any mention of in-band signaling. Because of this, Applicants respectfully submit that Qiao does not make up for the deficiency of Wei.

The excerpt from Qiao relied upon by the Examiner does not use the terms in band or out-of-band. Though this excerpt states that a "data burst follows [a] control packet" this appears to be a time-reference; not a reference to in-band signaling.

The Examiner also appears to analogize in-band signaling with the use of a "same wavelength." Notwithstanding any objections that Applicants may have to this analogy, Applicants note that Qiao does not disclose the use of the same wavelength (at least not in the excerpts referred to by the Examiner).

Accordingly, Applicants respectfully submit that the subject matter of claims 8 and 16 is not rendered obvious by a combination of Wei and Qiao.

Applicants also respectfully submit that, the Examiner's comments notwithstanding, the combination of Wei and Qiao is improper because such a combination would either render one or both of the references unsatisfactory for their intended purposes or require that the principle of operation of one or both of the references be changed. For example, Wei discloses a WDM system that uses out-of-band signaling to enable cross-connections. On the other hand, Qiao discloses a non-WDM system. Combining the disclosure in Qiao with Wei would require either: (i) that Wei's principle of operation be changed to a non-WDM system, or (ii) that Qiao's be changed to a WDM system; neither is permissible (see MPEP 2143.01).

Accordingly, for at least these reasons, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 8 and 16.

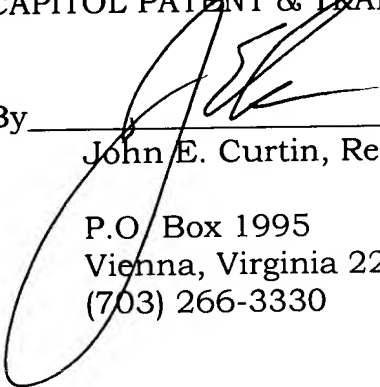
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC.

By



John E. Curtin, Reg. No. 37,602

P.O. Box 1995
Vienna, Virginia 22183
(703) 266-3330